



MANDAN, HIDATSA, & ARIKARA NATION

Three Affiliated Tribes • Fort Berthold Indian Reservation

HC3 Box 2 • New Town, North Dakota 58763-9402

REGULAR COUNCIL MEETING

MINUTES OF JULY 11, 1996

TRIBAL BUSINESS COUNCIL

(701) 627-4781

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- A. CALL TO ORDER AND OPENING PRAYER.** The Regular Monthly Meeting of the Three Affiliated Tribes' Tribal Business Council was held on Thursday, July 11, 1996. Meeting called to order by Chairman Russell D. Mason, Sr., at 11:00 a.m. in the Tribal Council Chambers. A moment of silent prayer was held.
- B. ROLL CALL.** Chairman Russell D. Mason, Sr., present; Councilman George Fast Dog, present; Councilman Mark N. Fox, present; Councilman Austin Gillette, present; Councilman Edwin Hall, present; Councilman Ivan Johnson, present; Councilman Daylon Spotted Bear, present. All members present.
- C. CHAIRMAN'S STATEMENT.** A press release issued by Chairman Mason was shared with the council, as follows:

"Today is a sad day for the Three Affiliated Tribes. It is a sad day because our members have always looked up to their tribal leaders, and now...with this conviction of former Tribal Chairman Wilkinson in federal court...it is apparent that one of those leaders has betrayed the trust our tribal members place in their elected leadership. Such an act puts tribal government in disrepute and that makes it harder to govern. It is also a sad day for taxpayers who find once again an elected leader who has misspent their tax dollars.

"But this is also a hopeful day, because this conviction should be a good example that such behavior must not and will not be tolerated. It is a hopeful day because, as we have dealt with this situation, this administration of the Three Affiliated Tribes has and will continue to pledge that we will do everything possible to prevent this kind of deception, this kind of criminal behavior, from ever happening again. We hope that all other tribal councils that follow ours will make a similar pledge.

"It is also a hopeful day, as we work within our tribal government to improve our constitution and make it more difficult for a tribal chairman or for any tribal official to misuse and violate the public trust. No

leader of our Tribes or of any political institution should be allowed to take the people's funds and be as manipulative as Mr. Wilkinson was, and we intend to do whatever we can to put in place permanently a tribal government that our members and everyone else can trust and believe in.

"It is now time to put trust back in our tribal government and its officials, and in all the other boards that serve our people, the trust in our public officials that we value so much. It is time to put in place a strong ethics code for members of our tribal council and other tribal officials. We look forward to the collective benefits all of our tribal members can gain from our efforts."

D. APPROVAL OF JUNE MINUTES.

MOTION by Mr. Fox to approve Minutes of Regular Meeting of June 18, 1996, with correction of Item H. 13 on CHR for Parshall, seconded by Mr. Fast Dog. Vote: 7 in favor. Minutes approved.

MOTION by Mr. Fox to approve Minutes of Special Meeting of June 21, 1996, seconded by Mr. Fast Dog. Vote: 7 in favor. Minutes approved.

E. APPROVAL OF AGENDA.

Motion to approve agenda, with 10 additions, made by Mr. Fast Dog, seconded by Mr. Fox. Vote: 7 in favor. Agenda approved.
Note: Mr. Gillette requested to defer the White Shield School/LCM/TERO Fee Issue.

F. UNFINISHED BUSINESS.

Action on Ted Lone Fight III Proposed Memorandum of Agreement to Repay Loan. In accordance with Tribal Council's request at meeting of June 18, Ted Lone Fight III presented a memorandum of agreement to repay his loan. **MOTION** was made by Mr. Johnson to approve, seconded by Mr. Fast Dog. Discussion. VOTE: 2 in favor, 3 opposed, 2 abstained. Denied.

G. NEW BUSINESS.

01. Motion for Standard Pay and Collection Procedure to be Set up on Outstanding Tribal Loans. **MOTION** by Mr. Gillette to direct the Chairman of the Credit & Finance Committee, with the assistance of the Legal Department, to come up with a standardized form for all tribal members who received loans, during the Wilkinson Administration, which are not currently being collected. Mr. Hall said he would second the

motion only if a "standardized" term was put on there. Motion **AMENDED** for standard-ized form to be completed within sixty (60) days.
Vote: 5 in favor, 1 abstained, Mr. Fast Dog not present for vote.

NOTE: Meeting recessed at 12:12 for lunch. Reconvened at 1:55 p.m. Mr. Johnson absent. Resolution on additional grant authority to chairman and treasurer for catastrophic medical emergencies and action on Schedule C Appointment Policy deferred to July 23 special meeting.

02. R#96-142-DSB for Minimum Internal Control Standards to be Adopted for Four Bears Casino. **MOTION** to approve with substitution of the word "direct" for "recommend" made by Mr. Fox, seconded by Mr. Hall. Motion and second **AMENDED** to include a notice be sent that there is a requirement to institute changes within six (6) months. Vote: 6 in favor, 1 absent. Carried.

03. Approval of FY 1997 Proposed Operating Budget for Casino. **MOTION** to approve made by Mr. Fox, seconded by Mr. Hall. Vote: 6 in favor, 1 absent. Carried.

04. R#96-143-DSB to Approve Letter to RTC re Tribes' Position on Terms of Agreement and Payment of Assessed Taxes into Escrow. **MOTION** to approve made by Mr. Fast Dog, seconded by Mr. Gillette: Vote: 5 in favor, 1 absent, Chairman not present for vote. Carried.

05. Approval of Memorandum of Understanding Between TAT and Fort Berthold Exploration Company of Williston, ND, to Promote the Exploration and Development of the Oil and Gas Resources of Tribal and Allotted Lands. **MOTION** to approve made by Mr. Gillette, seconded by Mr. Fast Dog. Vote: 4 in favor, 2 abstained, 1 absent. Carried.

NOTE: At this time, the following were deleted from the agenda:
(1) Resolution to donate \$3,000 to the Fort Berthold Coalition Against Domestic Violence; (2) Status of Potential Claim of Phyllis Howard in ND State Primary Election; (3) Two Resolutions for Appointment of Fort Berthold Development Corporation BOD and TBC Transportation Committee; (4) Fort Berthold Unity Riders Sobriety Ride Request; (5) Resolution to Grant Funds for the Xxosh-ga Reunion Celebration; (6) Rex Fox Request for Assistance for Fire Damage; (7) Indian Child Welfare Act Legislation Update; (8) ND Indian Gaming Assoc. Activities Update.

06. Authorization for NRD to Apply for "Native Tribes Initiative" Grant from Department of Energy. **MOTION** to approve made by Mr. Fox, seconded by Mr. Gillette. Vote: 4 in favor, 2 abstained, 1 absent. Carried.

07. Motion to Approve Extension of Consultant Agreement of Thomas J. Gunderson as Child Protection Services Attorney. **MOTION** was made by Mr. Spotted Bear to extend Attorney Gunderson's consultant agreement

with the Tribe for Child Protection Services Attorney for six months (to the end of the calendar year). Mr. Fox seconded for discussion purposes. Discussion by Mr. Fox to extend consultant agreement only to the end of this fiscal year (September 30), and no further; and that Legal make adjustments (to assist Child Protection Services), in the meantime. Second withdrawn. Motion **AMENDED** by Mr. Spotted Bear to extend consultant agreement "to the end of this fiscal year (September 30), and no further; and that adjustments be made by the Legal Department, in the meantime". Second by Mr. Fox. Vote: 5 in favor, Mr. Fast Dog opposed, 1 absent. Carried.

08. Motion for BIA Law Enforcement and TAT Tribal Court to Take Special Emphasis in Enforcing the Tribal Criminal Code Provision Against Excessive Volume on Vehicle Audio Systems. Discussion with BIA Captain of Police, Acting Superintendent, and New Town City Councilwoman Bernadine Young Bird. **MOTION** made by Mr. Fox, seconded by Mr. Gillette. Vote: 4 in favor, 1 abstained, Mr. Fast Dog not present for vote, 1 absent. Carried.

09. R#96-144-DSB for Testimony in Support of Federal Proposal to Transfer Reservation Law Enforcement and Judicial Financing Responsibility from BIA to the Department of Justice (DOJ). **MOTION** to approve resolution, to submit statement at the Sioux Falls meeting, with Diane J. Avery being the official representative of the Tribes, along with Mr. Fox, if he should choose to attend, was made by Mr. Fox. Motion seconded by Mr. Hall. Discussion: The transfer of law enforcement from BIA to DOJ will elevate reservation law enforcement to a departmental or cabinet level. Vote: 6 in favor, 1 absent. Carried.

10. R#96-145-DSB for Contribution of \$4,550 to the TAT Gaming Commission to Process FBI Fingerprint Cards for Indian Gaming Employees. **MOTION** to approve by Mr. Fox, seconded by Mr. Fast Dog. Vote: 6 in favor, 1 absent. Carried.

11. R#96-146-DSB to Approve Disbursement of \$70,917 to TAT Gaming Commission for Last Quarter of FY 1996. **MOTION** to approve by Mr. Gillette, seconded by Mr. Fast Dog. Discussion that this additional funding for the Gaming Commission will be based upon availability. Vote: 6 in favor, 1 absent. Carried.

H. LEGAL DEPARTMENT.

01. Motion to Approve Revision of Memorandum of Understanding with the National Indian Gaming Commission. Changes were recommended by NIGC to gaming attorneys. **MOTION** to approve made by Mr. Fox, seconded by Mr. Gillette. Vote: 6 in favor, 1 absent. Carried.

02. Status Report on Contest of 1994 Tribal Business Council Election. Supervising Attorney (SA) Christopher D. Quale reported

this case has been DISMISSED on the grounds that Evangeline Red Feather and the Committee for Continuing Progress and Integrity had missed the July 1, 1996 deadline to pay the necessary fees to cover the costs of a transcript. The plaintiffs' informal request for an extension of time has also been DENIED.

03. Status Report on 1996 Tribal Business Council Upcoming Election. SA Quale said the Primary Election for council representatives from Mandaree, New Town, and White Shield will be held on the third Tuesday in September (September 17); and the General Election will be held on the first Tuesday in November (November 5). Notices of the election have been posted, published and aired. Filing deadline for candidates is Thursday, August 8. Members of the Election Board should be selected by the Council on August 9. Close relatives of candidates should not serve on the election board.

04. Motion to Approve Tribal Business License for Aaron Keoke, Dakota Star, Inc. Mr. Keoke is in the business of pest control for commercial and residential structures within the boundaries of the Fort Berthold Reservation. MOTION to approve by Mr. Fast Dog, seconded by Mr. Fox. Discussion by Mr. Fox that the fee scale needs to be amended for business licenses. SA Quale said this could be worked on sometime in the near future. Vote: 5 in favor, Mr. Hall opposed, 1 absent. Carried.

I. OTHER BUSINESS.

01. R#96-147-DSB to Approve Consultant Agreement with Steve Cates for the Tribal/GIS Mineral Assessment Program. MOTION to approve by Mr. Gillette, seconded by Mr. Fast Dog. Discussion that this consultant agreement will be externally funded by grant funds. Vote: 6 in favor, 1 absent. Carried.

02. R#96-148-DSB to Authorize the NRD Environmental Division to Submit a Grant to the Federal Emergency Response Agency for Monies to Enhance the Tribes' Emergency Response Capabilities. MOTION to approve by Mr. Gillette, seconded by Mr. Fast Dog. Vote: 5 in favor, 1 abstained, 1 absent. Carried.

03. R#96-149-DSB to Appoint Marilyn Hudson to the ND State Historical Society's Native American Indian Advisory Committee. MOTION to approve by Mr. Gillette, seconded by Mr. Fox. Vote: 6 in favor, 1 absent. Carried.

04. R#96-150-DSB to Appoint Marion Wolf as a Member of the Tribal Gaming Commission. MOTION to approve by Mr. Fox, seconded by Mr. Fast Dog. Vote: 6 in favor, 1 absent. Carried.

05. R#96-151-DSB to Reappoint Edmund White Bear as a Member of the Tribal Gaming Commission. MOTION to approve by Mr. Gillette, seconded by Mr. Fox. Vote: 5 in favor, Mr. Fast Dog not present for vote, 1 absent. Carried.

06. Briefing on City of New Town Issues by Mayor Claire Aubol and Newly-Elected New Town City Councilwoman Bernadine Young Bird. Mayor Aubol advised that Mrs. Young Bird has been selected as Chairperson of the City's Committee on Police Matters and the Planning and Zoning Committee; Vice Chairman of the Cemetery, Finance & Public Improvements, and Street Committees; and she is also a member of the Civic Center Committee and the Fire and Public Safety Committee. Both Mayor Aubol and City Councilwoman Young Bird pledged to work with the Tribes on present and future issues. After discussion, Chairman Mason advised that either Mr. Ed Lone Fight or Mr. John Danks would be assigned temporarily to work closely with the New Town City Council as a representative of the Tribes.

07. Dick Mauer, Coach, Dakota Wizards Basketball Team, International Basketball Association, Proposal for Tribes to Become a Partner in the Franchise. Discussion on amount needed to invest, returns on investment, number of investors, deadline, price of franchise, and other matters. Deferred.

08. Gabriella (Katie) Dubois Request on IIM Account. Council went into executive session to discuss Mrs. Dubois' request to withdraw 60% of the funds in her IIM account, which presently has a lien placed on it, due to monies she owes the Tribe on a land sale, for which she had received payment, but did not convey the land to the Tribe, as she had changed her mind. MOTION was made by Mr. Fox to approve the release of 60% of her funds in her IIM account, but withhold, by directive, the remaining 40% to be applied against the balance she currently owes. Motion seconded by Mr. Hall. Vote: 5 in favor, Mr. Gillette not present for vote, 1 absent. Carried.

NOTE: A Special Council Meeting was decided to be held on Tuesday, the 23rd of July 1996 to deal only with deferred agenda items. Also, a Special Council Meeting was decided to be held on Friday, July 19, to address Segment Community Development Block Grants.

09. R#96-152-DSB to Develop an Elderly Assistance Conversion Program to Assist Qualified Elders with Participating in the Housing Authority's Unit Conversion Policy. The FBHA established a policy in December 1995 to convert low-rent units to mutual-help units, or to assist with the purchase of a unit, to provide greater possibilities of home ownership on the reservation. The Elderly Assistance Conversion Program will establish a program for qualified, elderly applicants to apply for financial assistance (not exceeding \$3,000) to enable them to become homeowners. MOTION to approve made by Mr. Fox, seconded by Mr. Hall. Vote: 6 in favor, 1 absent. Carried.

10. R#96-153-DSB to Create a Temporary Law Enforcement Position for Four Bears Area. **MOTION** to approve resolution made by Mr. Hall, seconded by Mr. Gillette. Discussion with Fort Berthold BIA Acting Superintendent and Captain of Police. Vote: 6 in favor, 1 absent. Carried.

11. Motion for Four Bears' Representative to Work with BIA Captain of Police on Patrol Vehicle for Four Bears Temporary Police Officer. **MOTION** made by Mr. Gillette that Mr. Hall work with Captain Tex Fox to determine which BIA vehicle could be rehabilitated and made into a patrol car. Second by Mr. Fox. Discussion by Captain Fox that the Bureau would maintain possession of the police radio used in the car. Vote: 5 in favor, 1 abstained, 1 absent. Carried.

12. R#96-154-DSB to Approve White Shield School Application for Grant under the School-to-Work Opportunities Act, U. S. Department of Education. **MOTION** to approve made by Mr. Gillette, seconded by Mr. Fox. Discussion: There will be no matching funds. Vote: 6 in favor, 1 absent. Carried.

13. R#96-155-DSB to Approve 1997 Commodity Program Budget. **MOTION** to approve made by Mr. Fast Dog, seconded by Mr. Hall. Discussion on budget. Vote: 6 in favor, 1 absent. Carried.

14. R#96-156-DSB to Approve Fort Berthold Community College Library Grants application. **MOTION** to approve by Mr. Gillette, seconded by Mr. Fast Dog. Vote: 5 in favor, Mr. Spotted Bear not present during vote, 1 absent. Carried.

15. People of the Willow Financial Request. Kathryn Young Bear, President of The People of the Willow Standing Together, submitted a request for \$4,748 for grantsmanship training and travel costs for four members of their organization to travel to Salt Lake City, UT; along with a request for \$6,300 to repair and renovate the building they have obtained as a meeting place. **MOTION** to approve the request was made by Mr. Fast Dog. Discussion on why the organization would not be able to use the new community center being built in Mandaree. No second to motion. Denied.

16. NE Segment Councilman's Requests to Tribal Council Committees. Councilman Fox requested some assistance from the Transportation/Roads Committee to get some action from the Roads Department on graveling Edith Whitman's Road, assisting with Buddy Beston's foundation, and removing two big culverts that belong to the Roads Department from the ditch by Joseph Dean's yard; and, the Natural Resources Committee to get some action from the Solid Waste Program to assist with garbage at Mr. Beston's. Both Mr. Spotted Bear and Mr. Gillette acknowledged Councilman Fox's requests.

NOTE: The following items were removed from the agenda: salary adjustment request for CMIII, 477 Demonstration Project; Mandaree Segment Employment Program. Added to the agenda by Secretary Spotted Bear were two members of the MHA/KMHA Board of Directors.

17. KMHA/MHA Board of Directors. Mr. Whitney Bell and Mrs. Abigail Bingen (both of whom serve on the MHA/KMHA Board of Directors) requested clarification from council as to responsibility and obligation of the KMHA/MHA Board of Directors. During an executive session, requested by Mr. Bell, both Mr. Bell and Mrs. Bingen were advised that the board of directors is always held responsible for the successful operation of any enterprise, entity, school, college, and so forth.

18. Motion to Restate TAT/TBC Policy Regarding Responsibility of Chartered Boards; Motion that KMHA/MHA Board Proceed on; & Motion for a Legal Opinion on Consultant Status vs. Employee Status. MOTION was made by Mr. Gillette that the Tribal Business Council restate its policy regarding chartered boards, which is "the board of directors is responsible for the operation of an entity, whatever it may be"; and that the KMHA/MHA Board of Directors proceed on. Motion was seconded by Mr. Spotted Bear. Vote: 4 in favor, 0 opposed, 2 abstained, 1 absent. Motion Carried.

Discussion: Mr. Fox requested SA Quale to send a legal opinion to all TAT board members (and administrative staff) that they, alone, are responsible and liable for determining who is paid as consultants and who is paid as employees--that the Tribe does not have a role or responsibility to determine this or to assume any liability for this--the boards, alone, are responsible; and the consultants, themselves, are responsible for paying all tax dollars, including income tax, to the Internal Revenue Service. The Tribal Business Council does not control this--the Board of Directors do--all the council does is give grant awards to help them operate (if necessary); how they determine and pay themselves is up to the boards, not the council, and the council has no liabilities as a tribe. Request acknowledged by SA Quale.

MOTION made by Mr. Gillette that the council also direct the Legal Department to formulate an opinion for all boards regarding consultant versus employee status, seconded by Mr. Hall. Discussion: This is to prevent the council from having to pay delinquent taxes of enterprises/entities due to lack of diligent work on the part of some boards. Vote: 6 in favor, 0 opposed, 0 abstained, 1 absent. Carried.

J. PERSONNEL.

NOTE: Resolution to change eligibility for enrollment in the Tribal Employees' Pension Plan was deferred to July 23 meeting.

(J. Personnel, Cont'd)

01. Motion to Hire Social Worker. **MOTION** made by Mr. Spotted Bear to hire Patty Buckman as FT/Permanent Social Worker, seconded by Mr. Fox. Vote: 5 in favor, 1 opposed, 1 absent. Carried.

02. Twin Buttes Segment Employment Program. **MOTION** by Mr. Spotted Bear for approval of two-week's temporary employment of Scott Chase as maintenance worker at South Segment, due to two-week suspension of full-time worker. Second by Mr. Gillette. Vote: 6 in favor, 1 absent. Carried.

03. Deferred Action on Recording Secretary's Salary Adjustment Request Submitted in June 1996. **MOTION** for approval of \$1.00 raise for Recording Secretary made by Mr. Spotted Bear. Discussion by Mr. Fox that this position is paid 100% from indirect costs, and the IDC rate and budget for this year and next year have already been approved, with no allowance made for any salary increases or Cost of Living Allowances. Discussion by Mr. Gillette that he would not support an increase if it had to come from the T-2 budget; and, although raises have been approved recently for two or three employees, there is supposed to be a freeze on salary increases until the job classifications are completed by Personnel and the Tribal Programs Analyst, which has not been done yet. No second to motion. Denied.

04. Treasurer Fox' Discussion with Personnel Director on Request for Salary Adjustment for Solid Waste Worker. Mr. Fox indicated he had received authorization from council to go over the T-2 Budget and see if a \$1.00 increase could be provided to one of the operators to make his salary consistent with the other operators, which he had done, and he had recommended a salary increase for Leland Beston to begin during PP#14, however, Personnel had refused to process it. Discussion on line of authority.

05. Status of Salary Adjustment Requests for TERO Employee(s) and 477 Demonstration Project Case Manager III. Mr. Fox indicated these programs had their own budgets and he had advised Marcus Wells, Jr. and Leo Cummings to submit their staff salary increases as long as it was within their budgets. Mr. Fox inquired as to the status of these salary adjustment requests. Chairman Mason said the Human Resources Committee had plans to review these, but this hasn't been done yet.

K. ADDITIONAL BUSINESS.

01. Motion to Add to Agenda. **MOTION** was made by Mr. Hall to add Ted Danks to the agenda, seconded by Mr. Fast Dog. Vote: 6 in favor, 1 absent. Carried.

(K. Additional Business, Cont'd)

02. R#96-157-DSB for Preservation of Rights of Way on Land Leased from the Tribe and Land Exchanged With the Tribe. MOTION to approve made by Mr. Fast Dog, seconded by Mr. Gillette. Discussion that landowner rights will not be taken away, rights of way already in existence have to be honored, and all lands owned by the Tribe must provide access. Vote: 5 in favor, 1 abstained, 1 absent. Carried.

03. Transportation Department Report. Mr. Ted Danks reported that the Tribal Safety Program is conducting Bike "Road-eos", and through a \$500 grant received from "Safe Kids", they bought bike helmets and used them up. Adolescent Health purchased 125 helmets and has about 23 left. They will be requesting \$500 from council to buy more helmets, and to give the same Bike "Road-eo" to kindergarten students.

L. NEXT MEETING. July 19, 1996, Special Meeting.

M. ADJOURNMENT. MOTION to adjourn by Daylon Spotted Bear, seconded by Mr. Fox. Vote: All in favor. Carried. Adjourned at 7:10 p.m.

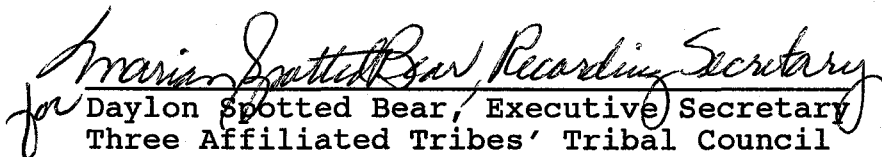
CERTIFICATION OF MINUTES

As Executive Secretary of the Tribal Business Council of the Mandan Hidatsa & Arikara Nation, Three Affiliated Tribes of the Fort Berthold Reservation, I hereby certify that:

The Tribal Business Council is composed of seven members, of whom five members constitute a quorum. 7 members were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 7th day of August 1996, whereupon Minutes of July 11, 1996, Regular Council Meeting, were presented for approval by the Three Affiliated Tribes' Recording Secretary.

Said minutes were duly approved by the affirmative vote of 6 members, 0 members opposed, 0 members abstained, 1 member not present during vote; and have not been amended in any way, except as noted by council when approved.

July 11, 1996, MINUTES APPROVED this 7th day of August 1996.


for Daylon Spotted Bear, Executive Secretary
Three Affiliated Tribes' Tribal Council

ATTEST:



Russell D. Mason, Sr., Chairman
Tribal Business Council